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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,897	03/17/2004	Todd L. DePue	1-74557	4617

27377 7590 12/09/2005

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA-FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER
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STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/802,897

Applicant(s)

DEPUE ET AL.

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the another non-final Office Action for application number 10/802/897 Cup Holder with Sensor, filed on 3/17/04. Claims 21-36 are pending. This is the second non-final Action is in response to applicant's reply dated 12/2/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

Claims 21-23, 25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6230948 to Steiger et al.

Steiger et al. teaches a body (1) including a generally horizontal support surface, an optical sensor (20, infrared sensor used optics to sense presence of the article) supported and positioned relative to and within the body opposite the support surface, a support member supported on the body which has pivoting movement about an axis that extends generally vertically, an actuator (10) that is responsive to the sensor.

#### ***Claim Rejections - 35 USC § 103***

Claims 24, 26, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. as applied to claim 21 above and further in view of United States Patent No. 5103279 to Gutteridge.

Steiger et al. discloses the basic inventive concept with the exception that it does not specifically teach that the sensor is a field effect device. Also, the sensor in Steiger et al. senses the presence of the article, but does not specifically define that the presence includes a diameter, a height, a width, a perimeter, or the weight of the article.

Gutteridge discloses a field effect sensor which is used to sense pressure (See Col. 1 lines 6-9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gutteridge to have used a field effect sensor for the pressure sensor application, in order to accurately sense an input of pressure.

Claims 27, 29-32, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. as applied to claim 21 above and further in view of United States Patent Publication No. 2003/006258 to Leopold et al.

Steiger et al. discloses the basic inventive concept as shown above with the exception that it does not teach wherein the support member movement is pivoting about a generally horizontal axis.

Leopold et al. teaches a device for supporting an article in which has a horizontal support surface and support members (26) which pivot about a generally horizontal axis, used to support the article in the desired location. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from

Art Unit: 3632

the teachings of Leopold et al. to have made the support members pivot about a generally horizontal axis, in order to support the article in a desired location.

Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. and in view of United States Patent Publication No. 2003/006258 to Leopold et al. as applied to claim 29 above and further in view of United States Patent No. 5103279 to Gutteridge.

Steiger et al. discloses the basic inventive concept as shown above with the exception that it does not teach wherein the support member movement is pivoting about a generally horizontal axis.

Leopold et al. teaches a device for supporting an article in which has a horizontal support surface and support members (26) which pivot about a generally horizontal axis, used to support the article in the desired location. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Leopold et al. to have made the support members pivot about a generally horizontal axis, in order to support the article in a desired location.

Steiger et al. and Leopold et al. disclose the basic inventive concept with the exception that they do not specifically teach that the sensor is a field effect device. Also, the sensor in Steiger et al. senses the presence of the article, but does not specifically define that the presence includes a diameter, a height, a width, a perimeter, or the weight of the article.

Gutteridge discloses a field effect sensor which is used to sense pressure (See Col. 1 lines 6-9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gutteridge to have used a field effect sensor for the pressure sensor application, in order to accurately sense an input of pressure.

### ***Response to Arguments***

With reference to claim 29, the applicant has argued that the reference to Steiger et al. does not teach wherein the support member is pivoted about a generally horizontal axis. This is persuasive and finality has been withdrawn.

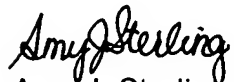
The applicant has also argued that the sensors in Steiger et al. are not positioned opposite of the support surface of the body. This is unpersuasive in the absence of any description of what "opposite" may include, the sensors positioned above the support surface in Steiger et al. are considered to be opposite of the support surface. The applicant is arguing "opposite" narrower than described.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823

Art Unit: 3632

(Informal communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

A handwritten signature in black ink, appearing to read "Amy J. Sterling". The signature is written in a cursive, flowing style.

Amy J. Sterling  
12/8/05